



## **North Dakota Department of Public Instruction IDEA Part B funds Use of Funds Guidance**

### **Principles:**

Subrecipients of federal the Individual with Disabilities Education Act (IDEA) Part B funds, in using such funds, are required to comply with current IDEA Part B statutory and regulatory requirements and applicable requirements in the General Education Provisions Act (GEPA) and the Education Department General Administrative Regulations (EDGAR). An LEA must use Part B funds only for the excess costs of providing special education and related services to children with disabilities except where IDEA specifically provides otherwise. These funds are to be used for the purpose of providing for the education and services of students with a disability, to strengthen education, drive reforms and improve results for students' ages 3 through 21.

Units must be able to account for their IDEA Part B funds separately from other state and federal funds. Changes mandated pursuant to the IDEA require more detail in reporting costs associated with children with disabilities than in the past. The federal Uniform Grant Guidance which units must follow in the administration of IDEA Part B funds went into effect in Spring of 2015.

Federal special education law (IDEA) requires the reporting of costs to differentiate between elementary (kindergarten through grade 6) and secondary (grades 7-12) levels. To be consistent the reporting of state and local special education funds where the expenditure(s) are not attributable to one cost area, these examples are given:

- Coding for disability – in either grades K-6 or 7-12, if there are children in the classroom with varied disability conditions, the teacher's salary code should reflect the disability condition of the majority of the children.
- Coding for grade level – If there are children with varied disability conditions in the classroom, and the classroom spans both the elementary and secondary categories above (for example, grades 6-8), the teacher's salary code should be pro-rated to reflect the grade level for the majority of the students in the class.

Units may choose to use their IDEA Part B, both regular and Early Childhood Special Education (ECSE) resources, to focus on one or more of the following priorities:

Allowable Expenditures	Unallowable Expenditures
<p>Employment of Special Education Intervention Specialist (k-12 and preschool) and Early Intervention instruction and benefits to supplement state foundation unit funding.</p> <p>Cost associated with pay raise/increase in excess of local and or state funds currently being used to pay salaries and fringe benefits for special education or other eligible staff.</p> <p>Appropriate instructional supplies and materials designed to increase student achievement and outcomes while increasing access to and progress in the general curriculum, which can be an asset for both teaching and learning.</p> <p>Substitute personnel cost for district personnel who are participating in special education team meetings such as individualized education program (IEP) meetings or evaluation team report MDT meetings, professional development and/or collaborative planning related directly to the provision of special education and related services.</p> <p>Cost of evaluations for students suspected of having or identified with disabilities that require said evaluation.</p> <p>Cost of instructional materials and media (such as books, study guides, computer programs, maps, videos, CD and DVD) related to the instruction of children with disabilities.</p> <p>Payment of excess cost for preschool and school age children with disabilities when direct services are being provided by a district other than the district of residence.</p>	<p>Compensation to staff not employed or contracted as a Special Education Intervention Specialist or aide/paraprofessional or Special Education administrative/supervisory staff, unless the Part B funds are being used for Coordinated Early Intervening Services – see below.</p>
<p>Costs associated with implementation of scientifically-based research practices, strategies, methods and/or programs designed that respond to a specific educational need identified by the district. Instructional materials hardware and software, related professional development activities, computers and peripherals necessary to support implementation could be included.</p>	
<p>Related service personnel salary and fringe benefits.</p> <p>Cost of salaries and fringe benefits in excess of state or local monies provided for special education teacher aide(s), related service provider(s) and teacher aide substitutes serving children with disabilities.</p>	<p>Cost of a physician, school nurse or other medical personnel serving the health needs of all children within the district.</p>

Allowable Expenditures	Unallowable Expenditures
<p>A Local Education Agency (LEA) may elect to use <b>up to 15 percent of its total IDEA Part B allocation to implement Coordinated Early Intervening Services (CEIS)</b> to provide early intervening services for those students not yet identified as needing special education or related services, but who may need additional academic and behavioral supports to meet grade-level indicators. More specifically, these services should be targeted to K-12 (with a focus on K-3) students.</p> <p>LEA activities may include:</p> <ul style="list-style-type: none"> <li>• Professional development to enable teachers and school staff to deliver scientifically based academic instruction and behavioral interventions</li> <li>• Scientifically based literacy instruction</li> <li>• Instruction in the use of adaptive and instructional software</li> <li>• Provision of educational and behavioral evaluations, services and supports</li> </ul> <p>Coordinated services are to be aligned with the Elementary and Secondary Education Act (ESEA).  <i>*NOTE: Please see CEIS section in this document for fiscal caution.</i></p>	
<p>Staff/parent visits to exemplary programs/or schools that have adopted effective scientifically based programs/strategies.</p>	
<p>Cost attributable with securing state licensure for operating a preschool classroom.</p> <p>Costs for services that supplement and increase special education services provided to preschool children with disabilities, ages 3-5. Part B funds may be used to pay costs for children ages 3-21; however, ECSE funds may be used only for children with disabilities ages 3-5.</p> <p>Cost for expanding the availability and range of inclusive placement options for preschoolers with disabilities by increasing the capacity of public and private preschool programs through activities such as professional development and technical assistance.</p>	
<p>Indirect cost rates within the rates approved by NDDPI State Grants Management Office.</p> <p>Cost incurred for an impartial due process hearing.</p>	<p>Flat percentage of the total budget for “administrative” costs without approval through Grants Management.</p> <p>Legal fees, costs and expenses paid to private legal counsel of either the district or the parents of a student with disabilities.</p>

<b>Allowable Expenditures</b>	<b>Unallowable Expenditures</b>
<p>Cost of special education administrator, director or coordinator, including preschool provided 1) activities are directly attributable to the delivery of special education and related services to children with disabilities and 2) person holds a supervisory or administrative certificate/license issued by Education Standards and Practices Board.</p> <p>Mileage for district personnel to travel to and from IEP/MDT meetings, conferences and related services.</p>	
<p>Cost for technology to assist in certain administrative tasks. IDEA 2004 provides specific language supporting the use of technology in managing the special education process. Useful technology should be a tool available to classroom teachers, paraprofessionals, related services providers and administrators to collect and use data to improve teaching and learning.</p>	
<p>High quality, scientifically research based district-wide PD activities designed and implemented in cooperation with regional providers that are designed to assist districts/buildings in implementing systems of support for addressing the academic (reading, math, writing, science) and behavioral needs of children with disabilities and children at-risk of being identified as disabled. HQPD activities focusing on the unique needs of students with autism.</p> <p>Note: For preschool education, expenditures may include staff attendance at the early childhood conference co-sponsored by ODE and OAEYC.</p>	<p>District-wide PD not specifically directed at meeting the identified academic or developmental needs of students with a disability or for CEIS activities.</p>
<p>Activities designed to increase the meaningful involvement of families in the educational process by improving cooperation and communication between schools and the parents of children with disabilities (i.e., cost of employing a Parent Mentor, dissemination of information and resources).</p>	
<p>Costs attributable to creating a safe learning environment to assure FAPE for special education students for persons involved in a given educational setting.</p>	<p>General expenditures that will generally benefit all students in a building/district.</p>
<p>Purchase of a vehicle specifically for the transportation of a student(s) with a disability; cost of equipment to make a vehicle ADA compliant (e.g., wheelchair lift, handrails, seatbelts or other restraints).</p>	<p>Purchase/use of a regular or handicapped equipped vehicle to transport general education students.</p>
<p>Transportation costs for students with a disability.</p>	<p>Mileage for out-of-state student field trips.</p>
<p>Equipment necessary for the delivery of special education and related services to children with disabilities. Equipment is (a) machinery, utilities, and</p>	<p>Mobile/Modular Units may not be purchased with Part B funds.</p>

Allowable Expenditures	Unallowable Expenditures
<p>built-in equipment, and any necessary enclosures or structures to house the machinery, utilities, or equipment; and</p> <p>(b) all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture; printed, published and audio-visual instructional materials; telecommunications, sensory, and other technological aids and devices; Consumable items and items with a useable life of one year or less are not considered equipment.</p>	
<p>Appropriate instructional supplies and materials designed to increase achievement and outcomes of students with disabilities while increasing access to and progress in the general curriculum.</p> <p>Appropriate instructional supplies and materials for the purpose of early intervening services for students who need additional academic and behavioral supports to succeed in a general education environment. Funds may be used for providing educational and behavioral evaluations, services, and supports, including scientifically based literacy instruction.</p>	<p>CEIS funds may not be used for universal assessment for all students in a district.</p> <p>CEIS funds may not be used to supplant other funds used for intervention programs, services and costs provided in a prior year.</p>
<p>State of the art assistive technology, alternative and augmentative communication devices and software to enhance access to the general curriculum. Training cost associated with assistive technology.</p>	
<p>Salary and benefits for personnel to assist students with disabilities transition from high school to post secondary opportunities (e.g., transition specialist, job coaches, work study personnel, etc.)</p>	

**NOTE: The use of Part B funds must support the instruction or development of students with disabilities or students being served in a Coordinated Early Intervening Services Program. Ancillary benefit to non-disabled students is allowable however, the service must be directed to and the majority of the benefit received by students with disabilities.**

#### **Maintenance of Fiscal Support and Maintenance of Effort**

For the purpose of establishing eligibility for an IDEA award for the fiscal year, school districts must make available, for the education of children with disabilities, at least the same total or per capita amount from the same sources for the most recent prior year with either local funds only or the combination of State and local funds. 34 CFR 300.203 (a). This is known as Maintenance of Fiscal Support. School districts are required to expend for the education of children with disabilities in local, or state and local funds, an amount, which is, at least the same in total or per capita, as the amount spent in the most recent fiscal year for which information is available. This is known as Maintenance of Effort (MOE) 34 CFR 300.203 (b).

### **Coordinated Early Intervening Services**

LEAs may use a portion of its allocation (up to 15 percent) received under IDEA Part B provide early intervening services for those students not yet identified as needing special education or related services but who may need additional academic and behavioral supports to meet grade-level indicators.

- Specifically Section 613(f) (1)-(5) enables LEAs to use up to 15 percent of their IDEA allocation to provide early intervening services. These services should be targeted to grades K-12 (with a focus on K-3) students not yet identified as needing special education or related services but who need additional academic and behavioral supports to succeed in the general education environment.

LEA activities may involve:

- Professional development to enable teachers and school staff to deliver scientifically based academic instruction and behavioral interventions;
- Scientifically based literacy instruction;
- Instruction in the use of adaptive and instructional software;
- Provision of educational and behavioral evaluations, services and supports; and
- Coordination of services aligned with the Elementary and Secondary Education Act (ESEA).

### **Allowable Replacement of Local Funds**

Section 613 of IDEA 2004 is very specific with regard to IDEA Part B funds supplementing, not supplanting (SNS) state and local special education funding and the unit's maintenance of effort (MOE) requirement. However, it should be noted that IDEA 2004 provides for an allowable replacement of local funds.

IDEA 2004 requires each state to have in place a State Performance Plan (SPP) that evaluates its efforts to implement the requirements and purposes of Part B of IDEA and describes how the state will improve such implementation. Annually states are required to report LEAs performance against the 17 indicators established by the OSEP. In addition, the law requires that states must evaluate each LEA on their performance against a set of targets established in the SPP.

For those LEAs who received a "Meet Requirements" annual determination from NDDPI/Office Of Special Education *may* use up to 50 percent of the special education Part B IDEA funds received in excess of the amount received for the prior year to replace local education funds (see the example provided in the box below) as long as the local funds are then used for activities authorized by ESSA. Units choosing this option to replace state and local funds with the freed-up Part B funds are required to identify and report the expenditures of the freed up state and local funds through a separate job code. This will enable units to document the use of Part B funds for replacement of prior year local expenditures for audit purposes.

### Additional Provisions:

- Under IDEA 616(f), if an SEA determines that an LEA is not meeting the requirements of Part B, including meeting targets in the state's performance plan, the SEA *must* prohibit that LEA from reducing its MOE under IDEA section 613(a)(2)(C) for any fiscal year;
- An LEA must receive a determination under Section 616 of "Meets Requirements" from the state in order to take advantage of this flexibility; and
- An LEA that is required to use 15 percent of its IDEA Part B allocation on Coordinated Early Intervening Services (CEIS) because the SEA identified the LEA as having significant disproportionality under 34 CFR 300.646 will not be able to reduce local MOE under IDEA.

**PLEASE NOTE: Funds used to provide early intervening services under section 613(f)(1)-(5) count towards the maximum amount of local expenditures that a district may reduce.**

### Combining the use of funds to reduce Maintenance of Effort and for Early Intervening Services

LEAs that seek to reduce their local maintenance of effort in accordance with §300.205(d) and use some of their Part B funds for early intervening services under §300.226 must do so with caution because the local maintenance of effort reduction provision and the authority to use Part B funds for early intervening services are interconnected. The decisions that an LEA makes about the amount of funds that it uses for one purpose affect the amount that it may use for the other. Below are examples that illustrate how §300.205(d) and §300.226(a) affect one another.

**Example 1:** In this example, the amount that is 15 percent of the LEA's total grant (see §300.226(a)), which is the maximum amount that the LEA may use for EIS, is greater than the amount that may be used for local MOE reduction (50 percent of the increase in the LEA's grant from the prior year's grant) (see §300.205(a)).

Prior Year's Allocation:	\$ 900,000
Current Year's Allocation:	\$1,000,000
Increase:	\$ 100,000
Maximum Available for MOE Reduction:	\$ 50,000
Maximum Available for EIS:	\$ 150,000

- If the LEA chooses to set aside \$150,000 for EIS, it may not reduce its MOE (MOE maximum \$50,000 less \$150,000 for EIS means \$0 can be used for MOE).
- If the LEA chooses to set aside \$100,000 for EIS, it may not reduce its MOE (MOE maximum \$50,000 less \$100,000 for EIS means \$0 can be used for MOE).
- If the LEA chooses to set aside \$50,000 for EIS, it may not reduce its MOE (MOE maximum \$50,000 less \$50,000 for EIS means \$0 can be used for MOE).
- If the LEA chooses to set aside \$30,000 for EIS, it may reduce its MOE by \$20,000 (MOE maximum \$50,000 less \$30,000 for EIS means \$20,000 can be used for MOE).
- If the LEA chooses to set aside \$0 for EIS, it may reduce its MOE by \$50,000 (MOE maximum \$50,000 less \$0 for EIS means \$50,000 can be used for MOE).

**Example 2:** In this example, the amount that is 15 percent of the LEA’s total grant (see §300.226(a)), which is the maximum amount that the LEA may use for EIS, is less than the amount that may be used for MOE reduction (50 percent of the increase in the LEA’s grant from the prior year’s grant) (see §300.205(a)).

Prior Year’s Allocation:	\$1,000,000
Current Year’s Allocation:	\$2,000,000
Increase:	\$1,000,000
Maximum Available for MOE Reduction:	\$ 500,000
Maximum Available for EIS:	\$ 300,000

- If the LEA chooses to use no funds for MOE, it may set aside \$300,000 for EIS (EIS maximum \$300,000 less \$0 means \$300,000 for EIS).
- If the LEA chooses to use \$100,000 for MOE, it may set aside \$200,000 for EIS (EIS maximum \$300,000 less \$100,000 means \$200,000 for EIS).
- If the LEA chooses to use \$150,000 for MOE, it may set aside \$150,000 for EIS (EIS maximum \$300,000 less \$150,000 means \$150,000 for EIS).
- If the LEA chooses to use \$300,000 for MOE, it may not set aside anything for EIS (EIS maximum \$300,000 less \$300,000 means \$0 for EIS).
- If the LEA chooses to use \$500,000 for MOE, it may not set aside anything for EIS (EIS maximum \$300,000 less \$500,000 means \$0 for EIS).

### **Parentally-Placed Private School Students**

The proportionate share calculation required under IDEA section 612 (a)(10)(A)(i)(1) is based on the district allocation of the Part-B funds. As part of consultation, the LEA, private school representatives and parents of parentally placed private school students must consider how the proportionate share of IDEA funds should be spent. LEA’s should consider the above referenced allowable use of funds when consulting with their respective private schools.